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7 Attorneys for Applicant City of Phoenix

8 BEFORE THE ARIZONA CORPORATION COMMISSION

9 COMMISSIONERS:

10 KRISTIN K. MAYES, Chairman
11 GARY PIERCE
12 PAUL NEWMAN
13 SANDRA D. KENNEDY
14 BOB STUMP

15 IN THE MATTER OF THE APPLICATION OF THE
16 CITY OF PHOENIX TO CLOSE THE EAST SIDE OF
17 THE 1ST AVENUE RAILROAD PEDESTRIAN
18 CROSSING AT THE TRACKS OF THE UNION
19 PACIFIC RAILROAD BETWEEN JACKSON STREET
20 AND BUCHANAN STREET, IN THE CITY OF
21 PHOENIX, MARICOPA COUNTY, ARIZONA, AT
22 AAR/DOT NO. 741-472-S.

23 Pursuant to A.R.S. § 40-243 and A.A.C.R. 14-3-109, Applicant City of Phoenix ("Phoenix")

24 hereby submits this supplemental response to the queries posed by the Honorable Marc Stern
regarding the railroad crossings at Second and Third Avenues near Jackson Street in downtown
Phoenix. This supplemental response supports Phoenix's application to close the east pedestrian
crossing at First Avenue.

RECEIVED

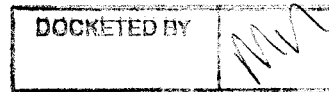
2010 FEB -4 P 4: 42

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

FEB - 4 2010



DOCKET NO. RR-03639A-09-0373

SUPPLEMENTAL RESPONSE BY
APPLICANT CITY OF PHOENIX REGARDING
RAILROAD CROSSINGS AT SECOND AND
THIRD AVENUES

OFFICE OF THE CITY ATTORNEY
GARY VERBURG, City Attorney
200 WEST WASHINGTON, SUITE 1300
PHOENIX, ARIZONA 85003-1611
(602) 262-6761

1. What are the existing conditions of the railroad crossings at 2nd and 3rd Avenues?

3rd Avenue - Currently there is a single track crossing at 3rd Avenue south of Jackson. From the City's aerials, it appears that there were three tracks at the crossing. It appears that the northern and southern most tracks have been removed and the center one was left in place.

2nd Avenue - Currently there is a single track crossing at 2nd Avenue south of Jackson. From the City's aerials, it appears that there were two tracks at this crossing. It looks like the southern most track was removed and the northern most track was left in place.

2. How long have these conditions existed?

Phoenix understands from UPRR that the tracks were removed in January 2009. Phoenix is without information and belief regarding the period of time that these conditions have existed.

3. What improvements are Phoenix's responsibilities?

This Supplemental Response has been delayed because Phoenix has been unable to accurately determine the right-of-way boundary at the respective crossings despite a diligent search. See memorandum attached as Exhibit "A" hereto and plat of 3rd Avenue crossing attached as Exhibit "B" hereto. To the best of Phoenix's knowledge and reasonable belief, Phoenix will need to construct curb, gutter and sidewalk that extend from the existing pavement locations to the new gate locations at each crossing. New access driveways for UPRR will have to be constructed. Utilities may need to be relocated as part of the new improvements. Asphalt pavement will also need to be removed and relocated. Because of the gate lengths, any improvements may need to extend beyond the gates, which may require the purchase of additional right-of-way.

4. What is the estimated cost of the improvements?

To the best of Phoenix's knowledge and reasonable belief, Phoenix currently estimates the costs of Phoenix's improvements to be approximately \$100,000.00. This amount will increase if additional right-of-way must be purchased.

5. When will the improvements that are Phoenix's responsibilities be made?

Phoenix is unable to provide a definitive date at this time. Phoenix must first determine accurate legal boundaries for the crossings. Once this is accomplished and a funding source has been located, Phoenix estimates the following time frames: (a) +/- 1 month to procure designer; (b) +/- 1 month to develop scope of work; (c) +/- 1 month to obtain approvals and execute design contract; (d) +/- 6 months to prepare and revise plans (preliminary plans & final plans); (e) 6 to 12 months or longer to obtain permits and approvals from UPRR after final plans are complete; (f) If Phoenix must acquire right-of-way, an additional 12 months may be needed; and (g) +/- 1 month for construction.

1 RESPECTFULLY SUBMITTED this 4th day of February, 2010.

2 GARY VERBURG, City Attorney

3
4 By 

DANIEL L. BROWN

200 W. Washington, Suite 1300

Phoenix, Arizona 85003-1611

Attorneys for Applicant City of Phoenix

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6
7 ORIGINAL and 13 copies delivered
this 4th day of February, 2010 to:

8 Docket Control Center
9 Arizona Corporation Commission
1200 W. Washington Street
10 Phoenix, Arizona 85007

11 COPIES of the foregoing mailed/delivered
this 4th day of February, 2010 to:

12
13 Honorable Marc E. Stern
Administrative Law Judge
14 Arizona Corporation Commission
1200 W. Washington Street
15 Phoenix, Arizona 85007

16 Aziz Aman, Manager of Special Projects
Union Pacific Railroad Company
17 2073 E. Jade Drive
18 Chandler, Arizona 85286-4898

19 Robert Travis, PE, State Railroad Liaison
Utilities & Railroad Engineering Section
20 Arizona Department of Transportation
205 South 17th Avenue, Room 357
21 Mail Drop 618E
Phoenix, Arizona 85007-3212

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23 ///

24 ///

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1 COPIES also sent via e-mail this 4th
2 day of February, 2010 to:

3 Janice Alward, Chief Counsel
4 Charles Hains, Staff Counsel
5 Arizona Corporation Commission
6 1200 W. Washington Street
7 Phoenix, Arizona 85007
8 E-Mail: chains@azcc.gov

9 Brian Lehman, Chief
10 Chris Watson
11 Railroad Safety Section
12 Arizona Corporation Commission
13 1200 W. Washington Street
14 Phoenix, Arizona 85007
15 E-Mail: cwatson@azcc.gov

16 By: Dina Balli

DLB:ks/845938v1

VERIFICATION

STATE OF ARIZONA)
)
County of Maricopa) ss.

BELINDA CUMMINGS, being duly sworn upon her oath, deposes and states as follows:

1. That she is a Civil Engineer II with the City of Phoenix Street Transportation Department and that she is the project manager for the City to establish a railroad horn quiet zone in downtown Phoenix. As part of establishing the quiet zone, she is the City's contact for the City's application to close the subject pedestrian railroad crossing at First Avenue;

2. That she has read the Supplemental Response by Applicant City of Phoenix Regarding the Railroad Crossings at Second and Third Avenues and knows the contents thereof; and

3. That she provided the information for the Supplemental Response and the information that inquire of matters within her personal knowledge are true and correct.

Belinda Cummings
BELINDA CUMMINGS

SUBSCRIBED AND SWORN to before me this 4th day of February, 2010, by Belinda Cummings.

Trina K. Scoll
NOTARY PUBLIC

My Commission Expires:

August 30, 2010

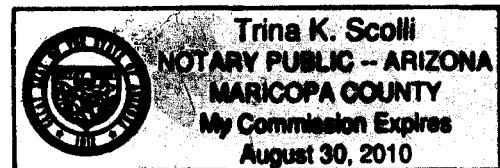


EXHIBIT "A"



City of Phoenix

FINANCE DEPARTMENT
REAL ESTATE DIVISION - TITLE SECTION

Date: November 18, 2009
To: Todd Belzner
From: Steven Hansen
Subject: City rights on and along 3rd Avenue at crossing of main line of Union Pacific Railroad south of Jackson Street

Todd:

As it relates to your request for information on the above-referenced subject, I offer the following:

Subject property is located in the Southwest quarter of Section 8, Township 1 North, Range 3 East and is bounded on the East and West by APNs 112-23-978B and 112-18-997A, respectively and can be seen on City of Phoenix Quarter Section Map No. 9-27.

I find no road maps depicting, designating or dedicating any portion of 3rd Avenue at its crossing with the railroad track referenced above.

This segment of 3rd Avenue at railroad crossing lies within no subdivision of record. There are 3 surrounding subdivision plats that show and dedicate right of way for 3rd Avenue, i.e AMENDED PLAT of MONTGOMERY ADDITION recorded in Book 2 of Maps, page 40 shows and dedicates an 80 foot right of way South of subject property; ORIGINAL TOWNSITE of PHOENIX recorded in Book 2 of Maps, page 51 directly North of subject property shows and dedicates an 80 foot right of way for 3rd Avenue; and EVANS SUBDIVISION recorded in Book 2 of Maps, page 31 shows an approximately 80 foot right of way along the West of subject property. However, while showing the location of subject property on MONTGOMERY ADDITION and EVANS SUBDIVISION these areas are nonetheless not a part of those subdivisions and therefore, any right of way shown adjoining them is not dedicated.

I find no conveyances to the County or City for any right of way from any adjoining owners.

I find of record Survey recorded in **Document No. 2009-0329113**, depicting on page 4, a map of the near vicinity of subject property showing right of way of 3rd Avenue at subject property as **27.86 feet east of centerline and 30.14 feet west of centerline**. Survey is for unknown purpose.

Vesting deed for tracts directly adjoining subject property on the South uses existing unnumbered tract corners and references 3rd Avenue as boundary line, indicating no encroachment on existing 3rd Avenue right of way as established in old plats referenced above, however wide that may be.

I find Ordinance No. 397 executed March 5, 1907 authorizing Maricopa & Phoenix & Salt River Valley Railroad Company to lay and construct railroad tract at subject property and beyond. **Ordinance contains limited railroad track maintenance requirements.**

Please call with additional questions.

Steven Hansen
Property Specialist

EXHIBIT “B”

